



1 IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Page 1

COPY

Ex. 7 Pg. 48

	Page 178
1	A. No.
2	Q. Do you know whether there's any reference
3	in the patent to a combination of target capture
4	with a target-specific method of application -- of
5	amplification?
6	A. This patent here?
7	Q. Yes.
8	A. I haven't read it completely, just the
9	pieces you have shown me.
10	Q. When the patent application was filed,
11	did you have any impression about whether the
12	greatest degree of specificity sensitivity might be
13	obtained by combining target capture with a
14	target-specific method of amplification?
15	A. I don't remember.
16	Q. Does that stand to reason at all?
17	A. I don't think so. I don't know what the
18	thought process would have been back then.
19	Q. Can you recall any reason that a
20	reference to PCR might have been intentionally
21	omitted from the patent application?
22	A. Yes.
23	Q. And what reason was that? Let me, let me
24	start over.

Page 179

1                   Was a reference to PCR intentionally           14:35:24  
2 omitted from the patent to the best of your           14:35:27  
3 understanding?   14:35:29  
4                   A. I don't know.                           14:35:30  
5                   Q. Were there discussions about whether or   14:35:31  
6 not to include a reference to PCR in the patent?   14:35:32  
7                   A. I can't remember.                       14:35:36  
8                   Q. So at Amoco you had a thought about   14:35:47  
9 combining target capture with PCR, is that right?   14:35:51  
10                  A. Yes.                                   14:35:54  
11                  Q. Gene-Trak then did work in an effort to   14:35:55  
12 combine target capture with PCR, is that right?   14:35:58  
13                  A. From seeing this here, yes.           14:36:03  
14                  Q. Do you have a recollection of that?   14:36:05  
15                  A. No.                                   14:36:07  
16                  Q. If there's no reference in the patent to   14:36:07  
17 combining target capture with PCR, do you have any   14:36:09  
18 explanation as to why it is not there?               14:36:13  
19                  A. I believe that it was a separate -- the   14:36:15  
20 thought behind this was coming up with new methods   14:36:17  
21 of amplification, not old ones.                       14:36:19  
22                  Q. And you would, for the purposes of what   14:36:31  
23 you just said, you classify PCR as an old method of   14:36:32  
24 amplification?                                       14:36:36

Ex. 3 Pg. 50

Page 180		
1	A. PCR itself was described in the patent,	14:36:37
2	yes, issued patent.	14:36:40
3	Q. And your understanding of the 338 patent	14:36:41
4	was that it was directed to other methods of	14:36:44
5	amplification?	14:36:47
6	A. The, it was, it was directed to the	14:36:48
7	methods disclosed by, you know, the methods	14:36:54
8	separate from PCR.	14:36:59
9	Q. Those being the methods, for example, as	14:37:07
10	the methods set forth in Example 6 and 7?	14:37:10
11	A. Yes.	14:37:14
12	Q. Is it your understanding that the 338	14:37:20
13	patent then doesn't encompass the combination of	14:37:22
14	target capture and PCR?	14:37:28
15	MR. BANKS: Object to the form.	14:37:30
16	A. I couldn't say.	14:37:31
17	Q. I'm sorry?	14:37:32
18	A. I couldn't say.	14:37:32
19	Q. Was it your intention that it encompass	14:37:33
20	the combination of target capture and PCR?	14:37:38
21	A. I don't know. I can't remember what the	14:37:40
22	intention was in regards to PCR.	14:37:41
23	Q. However, your recollection of why -- of	14:37:49
24	if there's no -- your explanation of why there	14:37:50

Ex. 7 Pg. 51